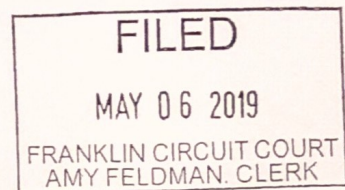


COMMONWEALTH OF KENTUCKY  
FRANKLIN CIRCUIT COURT  
DIVISION I  
CIVIL ACTION NO. 19ci453



ALISON LUNDERGAN GRIMES,  
in her official capacities as Secretary of State  
and chief election official of the  
Commonwealth of Kentucky

PLAINTIFF

v. **VERIFIED COMPLAINT FOR DECLARATION OF RIGHTS  
AND PERMANENT INJUNCTION**

DAMON THAYER, in his official capacity as  
Majority Floor Leader of the Kentucky Senate,

Serve: Damon Thayer  
700 Capital Avenue  
Capitol Room 319  
Frankfort, KY 40601

and

Andy Beshear  
Office of the Attorney General  
700 Capital Avenue, Suite 118  
Frankfort, KY 40601

MYRON DOSSETT, in his official capacity as  
a member of the Kentucky House of Representatives,

Serve: Myron Dossett  
702 Capital Avenue  
Annex Room 401  
Frankfort, KY 40601

and

Andy Beshear  
Office of the Attorney General  
700 Capital Avenue, Suite 118  
Frankfort, KY 40601



Serve: David Osborne  
700 Capital Avenue  
Capitol Room 309  
Frankfort, KY 40601

and

Andy Beshear  
Office of the Attorney General  
700 Capital Avenue, Suite 118  
Frankfort, KY 40601

ROBERT STIVERS, in his official capacity as  
President of the Kentucky Senate and a representative of the Kentucky Senate,

Serve: Robert Stivers  
700 Capital Avenue  
Capitol Room 319  
Frankfort, KY 40601

and

Andy Beshear  
Office of the Attorney General  
700 Capital Avenue, Suite 118  
Frankfort, KY 40601

KATRINA FITZGERALD, in her official capacity  
as a Non-Voting Member of the State Board of Elections

Serve: Katrina Fitzgerald  
140 Walnut Street  
Frankfort, KY 40601

and

Andy Beshear  
Office of the Attorney General  
700 Capital Avenue, Suite 118  
Frankfort, KY 40601



DAVID "OZ" OSBORNE, in his official capacity  
as a Non-Voting Member of the State Board of Elections

Serve: David L. Osborne  
140 Walnut Street  
Frankfort, KY 40601

and

Andy Beshear  
Office of the Attorney General  
700 Capital Avenue, Suite 118  
Frankfort, KY 40601

DEFENDANTS

\* \* \* \* \*

Plaintiff, Alison Lundergan Grimes, in her official capacities as Secretary of State and chief election official of the Commonwealth of Kentucky (the "Secretary of State"), by and through counsel, brings this action for a declaration of rights and permanent injunction against the Defendants, Damon Thayer, in his official capacity as Majority Floor Leader of the Kentucky Senate, Myron Dossett, in his official capacity as a member of the Kentucky House of Representatives, David Osborne, in his official capacity as Speaker of the Kentucky House of Representatives and a representative of the Kentucky House of Representatives, Robert Stivers, in his official capacity as President of the Kentucky Senate and a representative of the Kentucky Senate, and Katrina Fitzgerald and David "Oz" Osborne, in their official capacities as non-voting members of the Kentucky State Board of Elections.

### INTRODUCTION

1. This is an action pursuant to KRS 418.040 for declaratory and injunctive relief to prevent a partisan political effort to strip the Secretary of State, a constitutional officer, of the ability to discharge her executive duties as the Commonwealth's chief election official to



administer and enforce its election laws and to impermissibly reconstitute the State Board of Elections in violation of Sections 2, 6, 26 through 29, 51, 55 and 91 of the Kentucky Constitution.

2. The Secretary of State seeks a declaration that House Bill 114 enacted by the Kentucky General Assembly in its 2019 regular session and signed into law by Kentucky Governor Matthew G. Bevin on Tuesday, March 19, 2019 ("HB 114," attached as "Ex. A") violates the Kentucky Constitution and is therefore invalid.

3. The Secretary of State further seeks a permanent injunction prohibiting the enforcement or implementation of HB 114 and invalidating appointments made pursuant to it.

#### **THE PARTIES**

4. Alison Lundergan Grimes is a citizen of Kentucky and has twice been duly elected as Kentucky's Secretary of State by the citizens of the Commonwealth of Kentucky. Secretary Grimes has initiated this proceeding in her official capacities as Secretary of State and chief election official of the Commonwealth of Kentucky. The Secretary of State is the official in Kentucky's executive department responsible for oversight and administration of elections.

5. Damon Thayer is a citizen of Kentucky and the Majority Floor Leader of the Kentucky Senate, who, in his official capacity, sponsored Senate Bill 34 in the 2019 regular session of the General Assembly ("SB 34"), which was ultimately adopted as an improper amendment to HB 114.

6. Myron Dossett is a citizen of Kentucky and a member of the Kentucky House of Representatives, who, in his official capacity, sponsored HB 114 in the 2019 regular session of the General Assembly, which was ultimately amended by the Senate Committee on State and Local Government to incorporate the unconstitutional provisions of SB 34.



7. David Osborne is a citizen of Kentucky and the Speaker of the Kentucky House of Representatives, who, in his official capacity, is the presiding officer of the Kentucky House of Representatives and representative of it.

8. Robert Stivers is a citizen of Kentucky and the President of the Kentucky Senate, who, in his official capacity, is the presiding officer of the Kentucky Senate and representative of it.

9. Katrina Fitzgerald is a citizen of Kentucky, who was administered the Oath of Office as a non-voting member of the State Board of Elections on March 19, 2019.

10. David L. Osborne is a citizen of Kentucky who was administered the Oath of Office as a non-voting member of the State Board of Elections on April 9, 2019.

11. Pursuant to KRS 418.075 and CR 24.03, and because the constitutionality of an act of the General Assembly affecting the public interest is drawn into question by this action, a copy of this complaint is being served upon the Kentucky Attorney General.

#### **JURISDICTION AND VENUE**

12. This Court has jurisdiction over this action pursuant to Section 112(5) of the Kentucky Constitution, KRS 23A.010 and KRS 418.040.

13. Venue is proper in this Court pursuant to KRS 5.005(1).

#### **FACTUAL ALLEGATIONS**

14. On December 14, 2018, Senator Thayer pre-filed SB 34, entitled "AN ACT relating to elections and declaring an emergency." Although not apparent from its title, the original version of SB 34 proposed to amend KRS 117.025 (which addresses the powers and duties of the staff of the State Board of Elections) to provide that no member of the State Board of Elections, including the Secretary of State or individual staff members of the Office of the



Secretary of State, would have the ability to access, modify or alter the roster of all qualified registered voters that the Secretary of State, as Chief Election Official, and State Board of Elections are required by law to maintain.

15. Senator Thayer never offered any justification for SB 34 – much less its designation as emergency legislation – other than the unsupported suggestion that “ensuring proper access to the voter registration roster is a compelling and immediate need, as well as making a new delegation of authority to oversee the Uniform Military and Overseas Voters Act,” all of which appeared to be based entirely on inaccurate and unverified media reports.

16. The inaccurate and unverified media reports that formed the improper basis for SB 34 concerned alleged pending investigatory matters as to the Secretary of State’s necessary and appropriate access to voter data -- initiated by her then-potential political rivals in the 2019 gubernatorial race or their appointees. Indeed, Senator Thayer’s improper efforts during the 2019 regular session to alter Kentucky law so as to restrict and criminalize the Secretary of State’s access to voter data only underscore that the Secretary of State could not have conceivably violated any previously existing law.

17. On January 8, 2019, Representative Dossett separately introduced HB 114, entitled “AN ACT relating to elections,” in the House of Representatives. In its original form, HB 114 in fact related to the conduct of elections – and proposed only to amend KRS 118.367 (which addresses the filing of statement-of-candidacy forms by an independent, political organization or political group candidates) to change the related filing deadline for such statement-of-candidacy forms.

18. On February 13, 2019, the House of Representatives passed HB 114. The next day, on February 14, 2019, HB 114 was received in the Senate. On February 19, 2019, HB 114



was sent to the Senate's State and Local Government Committee.

19. On the same day, the Senate passed SB 34 with a State and Local Government Committee Substitute – apparently based entirely on inaccurate and unverified media reports – that further attempted to reconstitute the State Board of Elections as “an independent agency of state government,” remove the Secretary of State as Chair of the State Board of Elections and relegate the Secretary of State to a nonvoting, ex officio member of the State Board of Elections, change the composition of the State Board of Elections to allow the Governor to appoint two former county clerks to the Board, and delegate certain additional responsibilities to the State Board of Elections.

20. Once again, SB 34 failed to set forth any justification for any of its provisions – much less for its continued designation as emergency legislation. The next day, on February 20, 2019, Senate Bill 34 was received in the Kentucky House of Representatives.

21. On March 1, 2019, Franklin Circuit Court Judge Wingate stated that, as chief election official, the Secretary of State's access to Kentucky's voter registration system was “not only necessary but statutorily permitted.” Grimes v. Jared Dearing and Jennifer Scutchfield, Franklin Circuit Court, Civil Action No. 19-CI-00087 (Opinion p. 7).

22. On March 4, 2019, SB 34 was heard in the House Elections, Constitutional Amendments and Intergovernmental Affairs Committee. Senator Thayer appeared in support of his bill while testimony in opposition to SB 34 was provided by Mary Sue Helm, Director of Elections, for the Office of the Secretary of State.

23. Specifically, at the House Elections, Constitutional Amendments and Intergovernmental Affairs Committee, Ms. Helm noted the chaos in the upcoming elections the passage of the bill would cause as well as the fact that under the bill no statewide-elected official



would have oversight over elections but rather Kentucky's election laws would be completely overseen by appointees of the Governor. Ms. Helm further noted that with no tie-breaking vote, the State Board of Elections would be paralyzed in its decision-making capacity.

24. Despite Senator Thayer's testimony and efforts, SB 34 failed to clear the House Elections, Constitutional Amendments and Intergovernmental Affairs Committee after the committee vote resulted in a tie.

25. Representative Jeff Hoover, who was among the no votes on SB 34, was quoted as saying, "It seems to me that there is some kind of retribution going on, with this bill." Tom Latek, *Bill limiting secretary of state election powers fails in committee*, KENTUCKY TODAY, March 4, 2019, available at <http://kentuckytoday.com/stories/bill-limiting-secretary-of-state-election-powers-fails-in-committee>, 18125.

26. Indeed, Senator Thayer admitted that SB 34 was intended to target Secretary Grimes. After the vote was taken, Senator Thayer exclaimed to committee members, "This bill is not about Mary Sue Helm, it's about Alison Lundergan Grimes...and for those of you that voted no, it's now on your hands...as we head into a major gubernatorial primary." Daniel Desrochers, *Anti-Grimes bill dies in committee; tempers flare*, FORWARD KENTUCKY, March 6, 2019, available at <http://forwardky.com/anti-grimes-bill-dies-in-committee-tempers-flare>.

27. After SB 34 stalled in the House of Representatives, Senator Thayer, as a member of the Senate's State and Local Government Committee, maneuvered to have the language of SB 34 improperly appended to HB 114, as received by the Senate. On March 12, 2019, the Senate approved a modified version of HB 114 that had been amended to include the distinct subject matters addressed separately by then-failed SB 34 – and further proposed to criminalize any "inappropriate use" of the voter registration roster.



28. During the Senate's debate, Senator Thayer's stated justification for these improper measures was that "[w]e need to send a message to the voters that one partisan political figure cannot have . . . unfettered access to our voter database." Bruce Schreiner, *Ky gov signs bill limiting Grimes' power over election board*, ASSOCIATED PRESS, March 19, 2019, available at <http://www.apnews.com/26b4132d8ddd4006bfcc7c7f745a1387>.

29. Then and now, Kentucky's 120 partisan, elected county clerks have approximately 500 users to Kentucky's voter database; their access levels exceeds that of the Secretary of State's staff's "read-only" access level.

30. Despite a Senate committee amendment changing the title of HB 114 to "AN ACT relating to elections and declaring an emergency," HB 114, as amended by the Senate State and Local Government Committee, actually related primarily to curtailing the powers of the Secretary of State – the chief election official – and contained insufficient justification for its designation as emergency legislation.

31. Representative Hoover was quoted as saying of Senator Thayer's tactics that, "[w]e've been put in a position where they're just thumbing their nose at the committee process in the House." Daniel Desrochers, *'Big baby bully bill.' House passes bill to strip power from Alison Lundergan Grimes*, LEXINGTON HERALD-LEADER, March 14, 2019, available at <http://www.kentucky.com/news/politics-government/article227823859.html>.

32. Nonetheless, on March 14, 2019, the Kentucky General Assembly enacted HB 114, as amended by the Senate State and Local Government Committee.

33. On March 19, 2019, HB 114 was signed into law by Governor Matthew G. Bevin at 9:05 a.m., less than an hour before the regularly scheduled meeting of the State Board of Elections.



34. At approximately the same time on the morning of March 19, 2019, the Oath of Office was administered to Katrina Fitzgerald as a non-voting Member of the State Board of Elections. Ms. Fitzgerald is a retired county clerk from Meade County, who was appointed pursuant to KRS 117.015(6), as amended by HB 114.

35. The State Board of Elections held its scheduled regular meeting at 10:00 a.m. at the State Capitol. Ms. Fitzgerald attended the meeting as a non-voting member of the Board. Contrary to the express language of KRS 117.015, Ms. Fitzgerald voted on countless matters and the State Board of Elections failed to elect a chair, and instead moved to nominate member Joshua Branscum as a temporary "Chair Pro Tem."

36. On April 9, 2019, the Oath of Office was administered to David "Oz" Osborne as a non-voting member of the State Board of Elections. Mr. Osborne is a retired county clerk from Daviess County, who was appointed pursuant to KRS 117.015(6), as amended by HB 114.

37. The State Board of Elections next met on April 16, 2019. Despite continuing to serve as the Commonwealth's chief election official, the Secretary of State was neither permitted to chair the meeting nor to cast a vote on any matter pending before the State Board of Elections. Indeed, the Secretary of State was not afforded any meaningful opportunity to participate whatsoever in the affairs of the State Board of Elections, including the election of Mr. Branscum as its "Annual Chair."

38. Additionally, in direct contravention of HB 114 as amended, Ms. Fitzgerald and Mr. Osborne were permitted to, and in fact did, vote on every matter before the State Board of Elections.

39. At the same time, wasteful, politically motivated investigations continue regarding the necessary and appropriate access of the Office of the Secretary of State to



electronic voter registration data, which HB 114 criminalizes. Thus, there has been a chilling effect on the ability of the Office of the Secretary of State to administer and enforce the Commonwealth's election laws.

40. On March 30, 2019, an employee of the Office of the Secretary of State was accused of "improperly access[ing] the Voter Registration System for non-work-related reasons" with no factual support.

41. Further, in addition to conducting meetings in contravention to HB 114 as amended, on April 25, 2019, the staff of the State Board of Elections indicated their continued confusion over HB 114 requesting the Secretary of State's office provide guidance regarding their responsibilities in the upcoming election requesting a listing "of all elections related tasks and responsibilities that have by law or tradition been administered by the Secretary's office, but due to your interpretation of the new law, you no longer plan to do."

42. On Tuesday, April 30, 2019, the State Board of Elections' staff distributed voter registration numbers for the 2019 Primary Election. The total registered voters in the 4<sup>th</sup> Congressional District did not properly add up. Secretary Grimes informed staff of the possible coding error and requested the matter be fixed. The State Board of Elections' staff's response noted they were now operating under a policy that "all data derived may have an error rate of +/- 1%" or over 34,000 possible errors.

43. Kentucky's 2019 Primary Election will be held on May 21, 2019. Unless the Court invalidates and enjoins the enforcement of HB 114, the primary will be overseen pursuant to an unconstitutional law, the State Board of Elections will continue to operate in contravention of HB 114, chaos, confusion and uncertainty surrounding the election will exist, and the Secretary of State will have no meaningful ability to discharge her duties as the



Commonwealth's chief election official or otherwise ensure the executive branch's administration and enforcement of Kentucky's election laws in connection with the upcoming Primary Election.

44. Indeed, HB 114 violates the Kentucky Constitution in multiple respects.

45. In particular, HB 114 improperly amends KRS 117.015 to provide that the State Board of Elections "is an independent agency of state government, which shall administer the election laws of the state and supervise the registration and purgation of voters within the state." *See* Ex. A at KRS 117.015(1).

46. Moreover, despite continuing to designate the Secretary of State as "the chief election official for the Commonwealth," HB 114 improperly amends KRS 117.015 to relegate the Secretary of State to a non-presiding, non-voting member of the State Board of Elections. *See* Ex. A at KRS 117.015(2)(a).

47. HB 114 improperly amends KRS 117.015 to leave only six voting members of the State Board of Elections (with an executive director "who may vote only to break a tie regarding selection of the chair of the board"), appointed in equal number from lists submitted by the state central executive committee of the Republican and Democratic parties, with no procedural mechanism to break what would appear to be inevitable gridlock within the State Board of Elections. *See* Ex. A at KRS 117.015(2)(a)-(d).

48. HB 114 improperly amends KRS 117.995 to provide that:

Any local or state election official, including the Secretary of State, employees of the Secretary, and members of the State Board of Elections and their staff, who knowingly and willfully uses the voter registration roster in violation of subsection (3)(a) of Section 3 of this Act, shall, for each offense, be guilty of a Class A misdemeanor.

*See* Ex. A at KRS 117.995.



49. In turn, subsection (3)(a) of KRS 117.025, as improperly amended by HB 114, provides in unconstitutionally vague terms that the State Board of Elections shall “institute appropriate safeguards to ensure that there is no *inappropriate use* of the voter registration roster,” and that “State and local election officials, including the Secretary of State, employees of the Secretary, and members of the State Board of Elections and their staff, shall only use the voter registration roster for purposes *relevant to their prescribed duties of election administration.*” (emphasis added). See Ex. A at KRS 117.025(3)(a).

50. HB 114 improperly relates to multiple subjects (which are not evident from its title) and fails to set forth any well-grounded reasons justifying its designation as emergency legislation. See generally Ex. A.

#### CLAIMS FOR RELIEF

51. An actual controversy has arisen and currently exists concerning the permissibility under the Kentucky Constitution of the above-referenced sections of HB 114. Section 2 of the Kentucky Constitution provides that “[a]bsolute and arbitrary power over the lives, liberty and property of freemen exists nowhere in a republic, not even in the largest majority.”

52. Section 26 of the Kentucky Constitution provides that “[t]o guard against transgression of the high powers we have delegated, We Declare that every thing in this Bill of Rights is excepted out of the general powers of government, and shall forever remain inviolate; and all laws contrary thereto, or contrary to this Constitution, shall be void.”

53. Sections 27 of the Kentucky Constitution, provides that “[t]he powers of the government of the Commonwealth of Kentucky shall be divided into three distinct departments, and each of them be confined to a separate body of magistracy, to wit: Those which are



legislative, to one; those which are executive, to another; and those which are judicial, to another.”

54. Section 28 of the Kentucky Constitution provides that “[n]o person or collection of persons, being one of those departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.”

55. Section 29 of the Kentucky Constitution vests legislative power in the General Assembly. The Kentucky Constitution vests executive power in the Governor and other constitutional officers.

56. Section 51 of the Kentucky Constitution provides,

No law enacted by the General Assembly shall relate to more than one subject, and that shall be expressed in the title, and no law shall be revised, amended, or the provisions thereof extended or conferred by reference to its title only, but so much thereof as is revised, amended, extended or conferred, shall be reenacted and published at length.

57. Section 55 of the Kentucky Constitution provides,

No act, except general appropriation bills, shall become law until ninety days after the adjournment of the session at which it was passed, except in cases of emergency, when, by the concurrence of a majority of the members elected to each House of the General Assembly, by a yea and nay vote entered upon their journals, an act may become law when approved by the Governor; but the reasons for the emergency that justifies this action must be set out at length in the journal of each House.

58. Pursuant to Section 91 of the Kentucky Constitution, the Secretary of State is a constitutional state officer within the executive branch.

**COUNT I: DECLARATORY JUDGMENT**  
**Violation of Sections 27, 28, 29 & 91 of the Kentucky Constitution**  
**Separation of Powers: Prohibition on Independent Agencies**

59. The Secretary of State reasserts the allegations set forth previously in Paragraphs



1 through 58.

60. HB 114 violates the separation of powers doctrine enshrined in the Kentucky Constitution.

61. It is well settled law in the state of Kentucky that one branch of Kentucky's tripartite government may not encroach upon the inherent powers granted to any other branch. *Smothers v. Lewis*, 672 S.W.2d 62 (Ky. 1984). "The essential purpose of separation of powers is to allow for independent functioning of each coequal branch of government within its assigned sphere of responsibility, free from risk of control, interference, or intimidation by other branches." *Appalachian Racing, LLC v. Commonwealth*, 504 S.W.3d 1 (Ky. 2016) (citing *Nixon v. Fitzgerald*, 457 U.S. 731 (1982)).

62. One branch encroaches on another branch either when it exercises power vested in another branch or when its actions unreasonably interfere with the functions of another branch. *Vaughn v. Knopf*, 895 S.W.2d 566 (Ky. 1995); *Jones v. Com., Administrative Office of the Courts*, 171 S.W.3d 53 (Ky. 2005).

63. The executive branch of state government is constitutionally tasked with the enforcement and administration of the laws of the Commonwealth, including its election laws.

64. KRS 117.015, as amended by HB 114, is unconstitutional to the extent that it attempts to reconstitute the State Board of Elections as "an independent agency of state government."

65. "There is, simply put, no fourth branch of government." *Legislative Research Comm'n v. Brown*, 664 S.W. 2d 907, 916-17 (Ky. 1984).

66. The Secretary of State is entitled to a declaration that HB 114 is unconstitutional and invalid.



**COUNT II: DECLARATORY JUDGMENT**  
**Violation of Sections 27, 28, 29, & 91 of the Kentucky Constitution**  
**(Separation of Powers: Legislative Interference with Executive Department)**

67. The Secretary of State reasserts the allegations set forth previously in Paragraphs 1 through 66.

68. KRS 117.015, as amended by HB 114, further violates the separation of powers doctrine enshrined in the Kentucky Constitution because the General Assembly has unreasonably interfered with the powers of executive branch by impeding the ability of the Secretary of State, as the Commonwealth's designated "chief election official," and the State Board of Elections to effectively discharge their duties to administer and enforce the Commonwealth's election laws.

69. Despite continuing to designate the Secretary of State as the Commonwealth's "chief election official," KRS 117.015, as amended by HB 114, removes the Secretary of State as the Chair of the State Board of Elections while relegating her to a nominal role as a nonvoting, ex officio member. As a result, pursuant to KRS 117.015, as amended by HB 114, the Secretary of State has no meaningful ability to discharge her duties as "chief election official" to administer or enforce the Commonwealth's election laws or to oversee or participate in the affairs of the State Board of Elections.

70. KRS 117.015, as amended by HB 114, designates the Secretary of State as a nonvoting member of the State Board of Elections, leaving three appointed Democrats and three appointed Republicans as its only voting members. This structure appears designed to guarantee inevitable gridlock – and to unreasonably impede the ability of the Secretary of State and the State Board of Elections to administer free and fair elections and of the executive branch to otherwise enforce the Commonwealth's election laws. *See, e.g., Cooper v. Berger*, 809 S.E.2d 98, 114 (N.C. 2018).



71. These amendments along with amendments of additional statutes in HB 114 unduly burden and interfere with the functions and duties of the executive branch and violate the separation of powers doctrine. Thus, the Secretary of State is entitled to a declaration that HB 114 is unconstitutional and invalid.

**COUNT III: DECLARATORY JUDGMENT**  
**Violation of Section 2 of the Kentucky Constitution**  
**(Due Process)**

72. The Secretary of State reasserts the allegations set forth previously in Paragraphs 1 through 71.

73. KRS 117.995 and 117.025, as amended by HB 114, purport to criminalize the “inappropriate use” of voter registration data. This is unconstitutionally vague.

74. The combination of false and politically motivated accusations against the Office of the Secretary of State of inappropriate use of electronic voter registration data and the criminal sanction have and will have a chilling effect on the ability of the Office of the Secretary of State to discharge its official functions.

75. KRS 117.995 and 117.025, as amended by HB 114, are void for vagueness because they purport to criminalize the “inappropriate use of the voter registration roster” by the Office of the Secretary of State for purposes other than those “relevant to their prescribed duties of election administration.”

76. A statute that proscribes criminal punishment violates the Kentucky Constitution’s guarantee of due process when it is not “sufficiently specific that an individual has fair notice of what conduct is forbidden.” *Commonwealth v. Cocke*, 58 S.W.3d 891, 893 (Ky. App. 2001).



77. KRS 117.995 and 117.025, as amended by HB 114, purport to criminalize the “inappropriate use of the voter registration roster,” by the Office of the Secretary of State for purposes other than those “relevant to their prescribed duties of election administration,” without giving fair notice of what “inappropriate use of the voter registration roster” or “relevan[cy] to their prescribed duties of election administration” actually mean.

78. As a result, KRS 117.995 and 117.025, as amended by HB 114, will continue to impede the ability of the Office of the Secretary of State to administer and enforce the Commonwealth’s election laws.

79. The Secretary of State is entitled to a declaration that HB 114 is unconstitutional and invalid.

**COUNT IV: DECLARATORY JUDGMENT**  
**Violation of Section 51 of the Kentucky Constitution**  
**(Title of Legislation Not Germane to Subject Matter)**

80. The Secretary of State reasserts the allegations set forth previously in Paragraphs 1 through 79.

81. HB 114 violates Section 51 of the Kentucky Constitution because it improperly relates to multiple subjects, which were not reasonably noticed in its title. *Farris v. Shoppers Village Liquors*, 669 S.W.2d 213, 214 (Ky. 1984).

82. As a result, the Secretary of State is entitled to a declaration that HB 114 is unconstitutional and invalid.

**COUNT V: DECLARATORY JUDGMENT**  
**Violation of Section 55 of the Kentucky Constitution**  
**(Failure to Set Forth Reasons at Length for Emergency Enactment)**

83. The Secretary of State reasserts the allegations set forth previously in Paragraphs 1 through 82.



84. Neither HB 114 nor the legislative record sets forth any reasons "at length" justifying its designation as emergency legislation.

85. Accordingly, HB 114 violates Section 55 of the Kentucky Constitution, and the Secretary of State is entitled to a declaration that HB 114 is unconstitutional and invalid.

#### COUNT VI: INJUNCTIVE RELIEF

86. The Secretary of State reasserts the allegations set forth previously in Paragraphs 1 through 85.

87. CR 65.01 authorizes an injunction to "restrict or mandatorily direct the doing of an act." The Secretary of State asks this Court to permanently enjoin the enforcement of HB 114.

88. CR 65.04 provides:

A temporary injunction may be granted during the pendency of an action on motion if it is clearly shown by verified complaint, affidavit or other evidence that the movant's rights are being or will be violated by an adverse party and the movant will suffer immediate and irreparable injury, loss or damage pending a final judgment in the action, or the acts of the adverse party will tend to render such final judgment ineffectual.

89. As set forth above, this Verified Complaint for Declaration of Rights and Permanent Injunction clearly shows that absent the Court's entry of an order invalidating HB 114 and enjoining its enforcement, the Secretary of State will continue to suffer immediate and irreparable injury in that she will be precluded from discharging her duties as the Commonwealth's chief election official and otherwise ensuring the administration and enforcement of Kentucky's election laws. Moreover, in enacting HB 114, Defendants plainly violated numerous provisions of the Kentucky Constitution and other applicable laws.



90. The Secretary of State and the Commonwealth of Kentucky has suffered and will continue to suffer immediate and irreparable injury, loss or damage pending a final judgment in this action. Unless the Court issues an injunction enjoining the enforcement of HB 114, particularly before Kentucky's upcoming Primary Election on May 21, 2019, any final judgment in this action will be rendered ineffectual. Therefore, the Secretary of State has no adequate remedy at law other than the issuance of an injunction.

91. The Defendants' violation of numerous provisions of the Kentucky Constitution and other applicable laws are so blatant that there is a high likelihood that the Secretary of State will prevail on the merits of this action.

92. No Circuit Judge has refused the requested relief and no injunction bond is required pursuant to CR 81A.

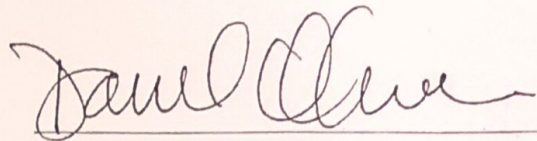
#### **PRAYER FOR RELIEF**

WHEREFORE, the Secretary of State requests the following relief:

1. An expedited review of this action pursuant to KRS 418.050 and CR 57;
2. A declaratory judgment that HB 114 is unconstitutional, invalidated in its entirety, and is of no force or effect;
3. An injunction temporarily and later permanently enjoining the implementation and enforcement of HB 114;
4. All other relief to which the Secretary of State may be entitled, including her reasonable costs and attorney's fees incurred herein.



Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Daniel O'Gara", written over a horizontal line.

R. Kenyon Meyer, Esq.

Daniel J. O'Gara, Esq.

Dinsmore & Shohl LLP

101 S. Fifth Street, Ste. 2500

Louisville, Kentucky 40202

*Counsel for Alison Lundergan Grimes,  
in her official capacities as Secretary of State  
and chief election official of the  
Commonwealth of Kentucky*

EXHIBIT A